

Court of Appeals, State of Michigan

ORDER

Michael Boyd v Jerry Samels

Docket Nos. 280925; 281558

LC No. 05-002307-NO

Elizabeth L. Gleicher
Presiding Judge

Henry Willam Saad

Deborah A. Servitto
Judges

In docket #281558, the Court orders that defendants' delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

In docket #280925, in lieu of granting plaintiffs' application for leave to appeal, the Court orders pursuant to MCR 7.205(D)(2) that the portions of the May 30, 2007 Shiawassee Circuit Court order finding that plaintiffs' claim against defendant Brenda Samels was frivolous, and awarding Auto Owners Insurance Company \$9,004.25 in attorney fees, plus interest are VACATED. Because the lower court concluded that plaintiffs properly filed the action against defendant Brenda Samels at the outset, it should not have assessed sanctions. See *Louya v William Beaumont Hosp*, 190 Mich App 151, 162; 475 NW2d 434 (1991).

In all other respects plaintiffs' delayed application for leave to appeal is DENIED on its merits.

The motion to file a late answer in Docket No. 281558 is GRANTED.

This Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR - 2 2008

Date

Sandra Schultz Mengel
Chief Clerk